



Fast Track Proposed Regulation Agency Background Document

Agency name	Board of Long-Term Care Administrators; Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC95-20-10
Regulation title	Regulations Governing the Practice of Nursing Home Administrators
Action title	Changes in CE hourly requirement and elimination of requirement for state examination
Date this document prepared	11/21/07

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The Board has acted to: 1) increase the number of continuing education hours that may be obtained through Internet or self-study courses from 5 of the required 20 hours to 10 of the required hours; and 2) eliminate the requirement for an applicant for licensure as a nursing home administrator to take an examination on Virginia law and regulations and substitute a requirement that the applicant attest to having an understanding of the law and regulation.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

The Board of Long-Term Care Administrators adopted the amendments to 18VAC95-20-10 et seq., Regulations Governing the Practice of Nursing Home Administrators on October 16, 2007.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Chapter 24 of Title 54.1 establishes the general powers and duties of health regulatory boards, including the Board of Long-Term Care Administrators, the responsibility to promulgate regulations and establish renewal schedules:

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege...

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title...

In addition, the Board has general authority to require additional training for persons seeking licensure or renewal of a license:

§ 54.1-103. Additional training of regulated persons; reciprocity; endorsement.

A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.

B. The regulatory boards may enter into agreements with other jurisdictions for the recognition of certificates and licenses issued by other jurisdictions.

C. The regulatory boards are authorized to promulgate regulations recognizing licenses or certificates issued by other states, the District of Columbia, or any territory or possession of the United States as full or partial fulfillment of qualifications for licensure or certification in the Commonwealth.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Proposed amendments modifying the requirements for licensure as nursing home administrators are consistent with those recently adopted for licensure of assisted living administrators. The additional flexibility in obtaining CE hours on-line or by the Internet may enable some administrators to spend those additional hours in their facilities where their job is to serve a vulnerable population. The substitution of an attestation of having read and understood the laws and regulations governing nursing homes in Virginia for a requirement to pass a jurisprudence examination should provide adequate assurance that an applicant for licensure has familiarized himself with his legal obligations. Since laws and regulations regularly change, it is more important that an applicant or a licensee be aware of the necessity for maintaining current knowledge and for compliance with law and regulation as necessary to protect the health, safety and welfare of residents in a nursing home.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The Board has determined that a fast-track process is appropriate because there is no controversy with this action. It will eliminate a costly examination that the Board does not believe is essential to ensure minimal competency and will expand the opportunities available to current licensees for compliance with continuing education requirements. Elimination of the state examination is consistent with recently-adopted regulations for the licensure of assisted living administrators under the same Board.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

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Issues

Please identify the issues associated with the proposed regulatory action, including:
 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
 3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

- 1) The advantage to the public of the amendment may be that it will facilitate the ability of a licensee to obtain continuing education hours without taking time from the nursing home in which he is employed. There are no disadvantages.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth. The Board does not administer the state examination, but it will provide a very modest reduction in the amount of phone calls and paper work necessary to process an applicant for licensure.
- 3) There is no other pertinent matter of interest related to this action.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists and conducting a public hearing. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled.</p>
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	There will be no on-going expenditures related to this action.
Projected cost of the regulation on localities	There are no costs to localities.
Description of the individuals, businesses or other entities likely to be affected by the regulation	The individuals affected by this regulation would be persons who will apply for licensure as a nursing home administrator and those persons who are already licensed and must comply with continuing education for renewal of licensure.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There are 708 persons currently licensed as nursing home administrators who would be affected by the change in the continuing education requirements. Elimination of the state jurisprudence examination would only affect future applicants, so there is no estimate of that number.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	The amended regulations will result in a cost-savings for applicants. Elimination of the state jurisprudence examination will reduce the cost of licensure by \$150 which is currently paid to the Professional Credential Service for administration of the examination. By doubling the number of CE hours that may be obtained through the Internet or on-line, the cost for compliance with CE requirements could be reduced for those licensees who choose that type of course offering versus attendance at a live presentation.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There would be no viable alternative to the proposal that would accomplish the purpose of reducing the regulatory burden for compliance with continuing education hours required for renewal of licensure and reducing the cost and burden for applicants seeking to become licensed as nursing home administrators.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family or family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Proposed change and rationale
175		<p>Continuing education requirements.</p> <p>A. In order to renew a nursing home administrator license, an applicant shall attest on his renewal application to completion of 20 hours of approved continuing education for each renewal year.</p> <p>1. Up to five <u>10</u> of the 20 hours may be obtained through Internet or self-study courses and up to 10 continuing education hours in excess of the number required may be transferred or credited to the next renewal year.</p> <p><i>The Board believes that there are now many quality on-line courses that can be used for continuing education credit. While interaction with one’s peers is an important aspect of continued learning in a profession, it should not be necessary to require ¾ of the hours be obtained in a face-to-face environment.</i></p>
220		<p>Elimination of the requirement for a state examination as well as a national examination for all applicants for licensure.</p> <p><i>The Board has recently adopted requirements for licensure of assisted living administrators and responded to comment by eliminating the state jurisprudence examination in the adoption of final regulations. Therefore, it seemed logical to make the nursing home regulations consistent. Additionally, most health regulatory boards have eliminated the state examination for initial licensure and have relied on a national examination to test for minimal competency.</i></p>
230		<p>In section 230 on the required elements of an application package: Adds a required attestation that the applicant has read and understands and will remain current with the applicable Virginia laws and the regulations relating to administration of nursing homes.</p> <p><i>The requirement is consistent with regulations for assisted living administrators and with other boards that have eliminated the state jurisprudence examination. The purpose of the attestation is to</i></p>

		<p><i>ensure that the applicant has read the law and regulation, that he knows he has an obligation to abide by those provisions and a responsibility to remain current with law and regulation.</i></p>
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